



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466

June 30, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lincoln County Commissioners
c/o T. Deb Wolfley, Chair
925 Sage Avenue
Kemmerer, WY 83101

Re: Notice of Safe Drinking Water Act
Enforcement Action against Kennington
Springs Pipeline, Inc.
PWS #5601199

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Kennington Springs Pipeline, Inc., Afton, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.21, 141.21(b), 141.63(a)(2), 141.21(g)(1), 141.21(g)(2), and 141.201 for: failure to monitor for bacteriological quality; failure to perform repeat monitoring for bacteriological quality; bacteriological maximum contaminant level (MCL) violations; failure to report total coliform monitoring and MCL violations to EPA; and failure to provide public notice of the monitoring violations.



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A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Olive Hofstader at (303) 312-6467.

Sincerely,

Melanie L. Pallman for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

June 30, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kennington Springs Pipeline, Inc.
Val Clines, President
4538 Bittercreek Road
Afton, Wyoming 83110

Re: Administrative Order
Docket No. **SDWA-08-2003-0036**
Kennington Springs Pipeline, Inc.
PWS ID #5601199

Dear Mr. Clines:

Enclosed you will find an Administrative Order ("Order"), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Kennington Springs Pipeline, Inc. ("System") is a public water supplier as defined by the SDWA and that the owner of the system has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.21(b), 141.63(a)(2), 141.21(g)(1), 141.21(g)(2), and 141.201 for: failure to monitor for bacteriological quality; failure to perform repeat monitoring for bacteriological quality; bacteriological maximum contaminant level (MCL) violations; failure to report total coliform monitoring and MCL violations to EPA; and failure to provide public notice of the monitoring violations.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations



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themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Olive Hofstader at the address on the letterhead, include the mailcode 8ENF-T, or you may call Ms. Hofstader at (800) 227-8917, extension 6467, or (303) 312-6467. If you wish to have an informal conference with EPA, you may also call or write Ms. Hofstader. If you are represented by an attorney or have legal questions, please call Wendy Silver at the above 800 number, extension 6637, or at (303) 312-6637.

We urge your prompt attention to this matter.

Sincerely,

Melanie L. Pallman for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
SBREFA

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

IN THE MATTER OF)	
)	
Kennington Springs Pipeline, Inc.)	
Afton, Wyoming)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	Docket No. SDWA-08-2003-0036
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region VIII.

FINDINGS

1. Kennington Springs Pipeline, Inc. (Respondent) is a corporation under the laws of the state of Wyoming as of November 21, 1978 and is therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Kennington Springs Pipeline Water System (the



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"System"), located in Lincoln County, Wyoming for the provision to the public of piped water for human consumption.

3. Kennington Springs Pipeline Water System regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to an April 29, 2002 sanitary survey by an agent for EPA, Respondent operates a system that is supplied by one spring, and serves approximately 70 persons per day through 23 service connections and is operational all year.



FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires community public water systems to monitor the water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a) (2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month. Under that section, no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the public water system for November 2000, December 2000, April 2002 and November 2002 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a) (2).

II.

1. 40 C.F.R. § 141.21 requires community public water systems to monitor the System's water at least once per



month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondent failed to monitor its water for contamination by total coliform bacteria for the months of March 2002 and August 2002, in violation of 40 C.F.R. § 141.21.

III.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a set of repeat samples within 24 hours after being notified of a total coliform positive routine sample in October 2002, in violation of 40 C.F.R. § 141.21(b).

IV.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system



discovers the violation.

2. Respondent failed to report to EPA the noncompliance detailed in Sections II and III above, in violation of 40 C.F.R. § 141.21(g) (2).

V.

1. 40 C.F.R. § 141.21(g) (1) requires public water systems that have exceeded the MCL for total coliforms under 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after learning of the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Section I above, in violation of 40 C.F.R. § 141.21(g) (1).

VI.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures



in 40 C.F.R. Part 141.

2. Respondent has provided public notice of the MCL violations detailed in the preceding Section I. However, Respondent has not provided public notice of the violations detailed in the preceding Sections II and III, in violation of 40 C.F.R. § 141.201.

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21 to perform monthly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
2. If the system has a total coliform MCL violation within twelve months of the effective date of this Order, Respondent shall submit detailed plans to EPA for bringing Respondent's public water system into



consistent compliance with the total coliform MCL at 40 C.F.R. § 141.63. The plans shall include proposed system or operational modifications and a schedule for implementing the approved plan. The schedule shall include specific milestone dates and a final compliance date. The plans must be approved by EPA before implementation can commence.

3. The schedule for construction and completion of modifications will be incorporated into the Order upon written approval by EPA.
4. Respondent shall complete system or operational modifications to its system no later than six months after EPA approves the plan.
5. Upon the effective date of this Order, Respondent shall comply with all repeat monitoring requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a)



the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

6. No later than thirty days from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violation in Sections II and III, in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; AND (2) any other method reasonably calculated to reach other persons served by



the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. The System must repeat the notice annually for as long as the violation persists. If the public notice is posted, the notice must remain in place for as long as the violation persists, but in no case less than seven days.

Respondent may use the Consumer Confidence Report ("CCR") to provide public notice as long as (1) The CCR is provided to persons served no later than 12 months after the system learns of the violation; (2) The public notice contained in the CCR follows the content requirements under 40 C.F.R. § 141.205; AND (3) The CCR is distributed following the delivery requirements under 40 C.F.R. § 141.204(c). Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent



shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

7. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after it learns of the violation.
8. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
9. Reporting requirements specified in this Order shall be provided by certified mail to:

Olive Hofstader
U. S. EPA Region VIII (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain



in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order instituted under Section 1414(g) (3) (A) of the Act, 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.



Issued this 30TH day of June, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Melanie L. Pallman for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE TO RECEIVE COPIES OF THE ENCLOSURES, PLEASE
CONTACT THE REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JUNE 30, 2003.



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